

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Clifton Singletary, #217943)	
)	C/A No. 0:09-0401-MBS
Petitioner,)	
)	
vs.)	O R D E R
)	
State of South Carolina; Warden of Lee)	
Correctional Institution,)	
)	
Respondents.)	
_____)	

Petitioner Clifton Singletary is an inmate in custody of the South Carolina Department of Corrections (SCDC). On February 18, 2009, Petitioner, appearing pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

This matter is before the court on Respondents' motion for summary judgment filed August 19, 2009 (Entry 26). By order filed August 19, 2009, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Petitioner was advised of the summary judgment procedures and the possible consequences if he failed to respond adequately. Petitioner filed a motion seeking to dismiss and vacate his sentence and convictions on September 4, 2009 (Entry 31), to which Respondents filed a response in opposition on September 22, 2009.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling. On November 6, 2009, the Magistrate Judge issued a Report and Recommendation in which she recommended that Respondents' motion for summary judgment be granted on the grounds that the petition was not timely. See 28 U.S.C. § 2244(d) (providing for a one-year period of limitations). The Magistrate

Judge further recommended that Petitioner's motion to dismiss be denied. Petitioner filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. Accordingly, Respondents' motion for summary judgment (Entry 26) is **granted**. Petitioner's motion to dismiss and vacate his sentence (Entry 31) is **denied**.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

December 11, 2009

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.